



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,364	06/19/2001	Johannes Hendrikus Van Lith	PB0013/US	1078

466 7590 11/17/2004

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

EXAMINER

JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
----------	--------------

3682

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/883,364
Filing Date: June 19, 2001
Appellant(s): VAN LITH ET AL.

MAILED

NOV 17 2004

GROUP 3800

Roland E Long, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 31, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-2 and 9-13 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

Art Unit: 3682

(8) Claims Appealed

A substantially correct copy of appealed claims 1-2 and 9-13 appears on page 16 of the Appendix to the appellant's brief. The minor errors are as follows: The applicant has failed to list cancelled claims 3-8.

(9) Prior Art of Record

5,169,369	MATSUDA et al	12-1992
1-247841	TAKAGI	10-1989

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 9, 10, 11, 12, and 13 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on June 1, 2004.

(11) Response to Argument

In the Office Action dated June 1, 2004 the applicant was advised that the process limitations referring to how the transverse element was made was not given patentable weight. See MPEP 2113. The applicant argues that the method of manufacture is not being claimed; rather a product with certain structural features is being claimed. It is agreed that structural features that are identifiable as resulting from that manufacture can reasonably be recited and are due consideration. The applicant has failed to state the structural features that result from the manufacturing process. The applicant has also failed to provide evidence that the manufacturing process steps impart distinctive structural characteristics to the final product.

The applicant states that the limitation that the transverse element is a cut single piece of material has not been given patentable weight. This statement is incorrect. In the above identified office action on page 2, a rejection was put forth stating that "the transverse element is a single piece of material (see Figs 4 and 5)", and goes on to state on page 3 that the process of how the element was manufactured, "cut" has not been given patentable weight. The applicant has not stated that there were any distinct structural features that should be considered as a result of the cutting process, nor has any evidence been provided to substantiate that result.

The applicant also argues that the recess 15 is a deformation recess on the rear side of the transverse element, and that it has not been given patentable weight. On page 2 of the Office Action dated June 1, 2004 the rejection states "a projection (72) which can mate with a recess (80)." The statement that the recess was not given patentable weight is incorrect. The office action goes on to say on pages 3 and 4, that "the limitation that the recess is a deformation recess and the projection is formed on the transverse element from displaced deformation material forming the recess has not been given patentable weight." The applicant has not stated that there were any distinct structural features that should be considered as a result of the deformation process, nor has any evidence been provided to substantiate that result.

The applicant argues that the Takagi reference fails to meet the limitations of the claims because it fails to disclose a "deformation recess." The Takagi reference is not used to teach a deformation recess. It is also argued the interlocking shape of the recess and projection of Takagi adds considerable material and weight to the transverse

Art Unit: 3682

element. The Takagi reference is not used to teach the interlocking shape of the recess and projection. The Takagi reference teaches that it is known in the art to extend the projection and the recess across the length of the transverse element in order to improve the efficiency of power transmission.

The rejection of Masuda et al in view of Takagi is proper.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Vicky A. Johnson
Examiner
Art Unit 3682

vaj


November 15, 2004

Conferees

David A. Buccini

Jack W. Lavinder

Vicky A. Johnson


DAVID A. BUCCINI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3800

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202